

IN THE DRAWINGS

Corrected drawings are supplied herewith. Enclosed is a set of Replacement Sheets showing higher contrast versions of Figures 1A through Figure 6, and deleted reference numbers 156, 138, and 232 on Figures 1B, 1C, and 2, respectively.

REMARKS

This responds to the Office Action mailed on October 2, 2006, and the references cited therewith.

Claims 1, 11, 22, and 26 are amended, no claims are canceled, and no claims are added; as a result, claims 1-3, 5, 6, 8-28, and 30-34 remain pending in this application.

Drawings and Specification Objections

The Examiner has noted typographical errors in the Drawings and Specification. Applicant has amended the Specification and Drawings as requested. Reconsideration and withdrawal of the objections are respectfully requested.

Petition of Restriction

Applicant maintains the traversal of the previous Restriction Requirement. A copy of the filed petition is enclosed.

§102 Rejection of the Claims

Claims 1-3, 6, 9, 11, 16-17, and 21 were rejected under 35 U.S.C. § 102(b) for anticipation by Mowlai-Ashtiani (U.S.Pat. No. 6,110,182). Applicant respectfully submits the claims are distinguishable for at least the following reasons.

The rejection states that, Mowlai-Ashtiani discloses a number of standoff features. The rejection on page 5 points to “(2 sides)” as shown in Figure 1 of Mowlai-Ashtiani. The rejection further states that Mowlai-Ashtiani discloses a standoff that inherently contacts the work surface along a circle.

Mowlai-Ashtiani appears to show a target halo 80 that is located on a patient's skull using point contacts shown in Figure 1 on opposing sides of the head, but not labeled in the Figure. Applicant is unable to find in Mowlai-Ashtiani a number of standoff features that are adapted to mount directly to a skull of a subject, and adjacent to an opening in the skull. Mounting adjacent to an opening in the skull provides an increased level of stability to the device, and also allows for movement of the patient's head during surgery. Applicant

respectfully submits that the unlabelled contacts shown on opposing sides of a skull in Figure 1 of Mowlai-Ashtiani contact a patient's skull at a point, not a circle.

In contrast, claim 1 as amended recites a number of standoff features attached to the base unit, wherein the standoff features are adapted to mount directly to a skull of a subject, and adjacent to an opening in the skull. Further in contrast, claim 11 as amended recites a number of standoff features attached to the base unit, wherein the standoff features are located adjacent to the number of securing devices, and wherein the number of standoff features are adapted for placement adjacent to an opening in a skull of a subject. Further in contrast, claim 9 recites at least one standoff feature is adapted to contact the work surface along a circle.

Applicant is further unable to find in Mowlai-Ashtiani a screw retention feature of any kind, specifically a screw retention feature that to hold a screw in place while also allowing rotation. The pending Office Action states that Mowlai-Ashtiani discloses “(not labeled: the portion surrounding the two visible screws on base unit 80)” as a screw retention feature. Applicant respectfully traverses this portion of the rejection 1.) because Applicant is unsure as to which feature the rejection intends, and 2.) Applicant is unable to find any description of any screw retention function of any unlabelled features in the specification. Applicant therefore submits that a *prima facie* case of anticipation has not been met.

The rejection further states on page 8 that “there are numerous retention features well known in the art and Applicant has not disclosed that an elastomer band, a protruding structure, or a retention feature that may be located above a screw opening provides an advantage.” Applicant respectfully disagrees that there are numerous retention features well known in the art, and as stated above, Applicant respectfully submits that a *prima facie* case of anticipation has not been met. Applicant respectfully requests withdrawal of the rejection unless a reference is provided showing such features.

In contrast, claim 17 recites a screw retention feature coupled to the base unit.

The rejection further states that “the opposing side that does not contact the work surface comprises the ‘shelf’ portion.” Without more guidance, Applicant is unable to determine what structure of Mowlai-Ashtiani is being used to compare to a shelf to determine an attachment

thickness. Applicant is further unable to find any shelf to determine an attachment thickness in combination with the bone screw. The specification in general provides advantages of embodiments of Applicant's shelf, for example Figure 3C and associated discussion on page 13, line 17 – page 14 line 2.

In contrast claim 21 includes a shelf to determine an attachment thickness. Further in contrast, claim 22 as amended includes a shelf to determine an attachment thickness in combination with a bone screw.

Because Mowlai-Ashtiani does not show every element of Applicant's independent claims, a 35 USC §102(b) rejection is not supported. Reconsideration and withdrawal of the rejection are respectfully requested with respect to Applicant's independent claims 1, 11, and 21. Additionally, reconsideration and withdrawal of the rejection are respectfully requested with respect to the remaining claims at least as depending from allowable base claims.

§103 Rejection of the Claims

Claims 5 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mowlai-Ashtiani in view of Hennig (U.S.Pat. No. 6,328,748). Claims 11 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mowlai-Ashtiani in view of Mocarski (U.S.Pat. No. 3,073,310). Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Mowlai-Ashtiani in view of Mocarski, in further view of Ghajar (U.S.Pat. No. 4,998,938). Claims 18-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mowlai-Ashtiani. Claims 22, 23, and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mowlai-Ashtiani in view of Hennig.

Applicant respectfully submits that the additional references of Hennig, Mocarski, and Ghajar fail to cure the rejection based on Mowlai-Ashtiani for at least the reasons outlined above.

Because the cited references, either alone or in combination, do not show every element of Applicant's independent claims, a 35 USC §103(a) rejection is not supported by the references. Reconsideration and withdrawal of the rejection are respectfully requested with respect to Applicant's independent claims 5, 15, 11, 12, 14, 18-20, 22, 23, and 25.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6944 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 30th day of January 2007.


Name


Signature